IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

WEDNESDAY, THE 30TH MAY 2007 / 9TH JYAISHTA 1929

RCRev..No. 77 of 2007()

RCA.180/2002 of RENT CONTROL APPELLATE AUTHORITY (ADDL.DISTRICT COURT (ADHOC)-II, THALASSERY)
RCP.34/2000 of RENT CONTROL COURT (MUNSIFF'S COURT), KUTHUPARAMBA

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REVISION PETITIONER/APPELLANT/RESPONDENT
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1. ANTHOLIMMAL KUNHIRAMAN, S/O.PAIDAL,
AGED 72 YEARS, PROPRIETOR, HAIR CUTTING SALOON,
NEAR MAREENA TEXTILES, P.O.KUTHUPARAMBA,
THALASSERI TALUK. (DIED).

SUPPL. 2. ANIL KUMAR, S/O.KUNHIRAMAN, AGED 32 YEARS, BARBER,
KUTHUPARAMBA, AMSOM, NARAVOOR DESOM,
P.O.KUTHUPARAMBA, KANNUR DISTRICT.

" 3. REEJA, D/O.KUNHIRAMAN, AGED 30 YEARS, NO OCCUPATION,
KUTHUPARAMBA AMSOM, NARAVOOR DESOM,
P.O.KUTHUPARAMBA, KANNUR DISTRICT.

" 4. SHEEBA, D/O.KUNHIRAMAN, AGED 28 YEARS, NO OCCUPATION,
KUTHUPARAMBA AMSOM, NARAVOOR DESOM,
P.O.KUTHUPARAMBA, KANNUR DISTRICT.

" 5. SHYJA, D/O.KUNHIRAMAN, AGED 26 YEARS, NO OCCUPATION,
KUTHUPARAMBA AMSOM, NARAVOOR, DESOM,
P.O.KUTHUPARAMBA, KANNUR DISTRICT.

(SUPPLEMENTAL 2 TO 5 ARE IMPLEADED AS PER ORDER DATED 25.5.07 IN I.A.1152/07)

BY ADV. SRI.K.V.PAVITHRAN
SRI.JAYANANDAN MADAYI PUTHIYAVEETTIL

RESPONDENT: RESPONDENT/PETITIONER

KANDOTH MOHANAN, S/O.GOVINDAN,
AGED 47 YEARS, SITE ENGINEER BY PROFESSION,
PERMANENTLY RESIDING AT NIRADEEPAM, MAUVERI,
ERUVATTY AMSOM, OLAIKKARA DESOM,THROUGH P.A.HOLDER
WIFE UDIRODAN PREETHA, AGED 43 YEARS,HOUSE WIFE,
NIRADEEPAM,MAUVERI,ERUVATTY AMSOM, OLAIKKARA DESOM

BY ADV. SRI.M.SASINDRAN

THIS RENT CONTROL REVISION HAVING COME UP FOR ADMISSION ON 30/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

R.C.R.No.77 OF 2007

Dated 30th May, 2007

ORDER

Koshy,J.

Petitioner is a tenant. He was ordered to be evicted by the Rent Control Court as it was found that wife of the landlord bonafide requires the building for starting a business. Order of eviction was passed under Section 11(3) of the Kerala Buildings (Lease and Rent Control) Act. The wife of the landlord (PW1) deposed that she wants to start a business of sale of ready made garments. She also stated that as her husband is away for work, after sending children to the school, there is no avocation for her and she wants to do the business. After considering the evidence adduced, the Rent Control Court found that her need is bonafide. The above finding of fact was endorsed by the appellate authority also. The findings of the lower courts regarding the bonafide need are concurrent and no grounds are made out for interfering with the same in a revision petition. The courts below concurrently found that there are alternate buildings available in the locality and, therefore, second proviso to Section 11(3) of the Kerala Buildings (Lease and Rent Control) Act is also not applicable. Contentions regarding the same was meticulously considered by the courts below and repelled.

Considering the findings of the courts below, we are of the opinion that no grounds are made out for interference in a revision petition.

2. The original tenant died during the pendency of this appeal and his children were impleaded as legal heirs (additional petitioners 2 to 5). Additional petitioners 3 to 5 are daughters and it is stated that the additional second petitioner is also doing the business of barber even though in the impleading petition it is not stated that he is continuing the business in the rented building. However, considering the fact that tenant was doing the business for a long time in the tenanted premises, we are of the view that six months' time can be allowed so that even if the second petitioner is doing the business of barber in the same premises, he can find out an alternate place for doing business, provided the additional petitioners file an affidavit within one month before the execution court that they will pay the arrears of rent, if any, as on today within three weeks and continue to pay the rent till they vacate and hand over the vacant possession of the building on or before the expiry of 30th November, 2007. If such an affidavit is filed within one month, the

petitioners shall not be evicted till 30th November, 2007. If the affidavit is not filed or arrears of rent (if any) is not paid as directed earlier, the respondent will be free to execute the order of eviction.

The revision petition is dismissed with the above directions.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

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